IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 215 OF 2007

Bhiwandi Nizampura City

Municipal Corporation ..Petitioner

v/s

Sunil B. Jadhav & anr. ..Respondents

AND

WRIT PETITION NO. 216 OF 2007

Bhiwandi Nizampura City

Municipal Corporation ..Petitioner

V/S

Shriram D. Giri & anr. ..Respondents

AND

WRIT PETITION NO. 217 OF 2007

Bhiwandi Nizampura City

Municipal Corporation ..Petitioner

V/s

Ashok S. More & anr. ..Respondents

Tejpal S. Ingale for Petitioner.

CORAM : A.P. DESHPANDE, J.

DATE : 11TH JANUARY, 2007.

P.C.

1. These three writ petitions are filed by Bhiwandi Nizampura Municipal Corporation challenging an order

passed by the Labour Court granting reinstatement with backwages to the Respondent, which order in turn has been confirmed by the Industrial Court while dismissing the Revision. The Respondents were in the employment of the Corporation and were proceeded against in the departmental enquiry for alleged commission of act of misconduct while purchasing detergent and fenyle. The Petitioner No. 2 dismissed the Respondents from the service as the charges were found to have been proved against them. Aggrieved by the dismissal, the Respondents preferred Departmental Appeals before the General Body of the Corporation. The Appeals were allowed and order of dismissal was set aside. However, the Petitioner No. 2 Commissioner of Municipal Corporation moved the State Govt. under section 451 of BPMC Act and sought suspension of the Resolution. The resolution came to be suspended and hence the Respondents were prompted to file the complaint before the Labour Court under MRTU & PULP Act. The Labour Court found that the enquiry conducted against the Respondents was not just and fair. The Petitioner - Corporation sought permission to lead evidence before the Labour Court with a view to

establish the charges of misconduct. The permission was granted by the Labour Court. Despite grant of permission by the Labour Court to lead evidence the petitioner chose not to lead evidence with a view to establish the misconduct. The Labour Court proceeded to allow the complaint. Learned counsel for the petitioner has contended that the finding recorded by the Lower Courts that the enquiry was not just and fair is not correct. The record reveals that the original enquiry papers were not produced before the Labour Court despite the direction in that regard being issued by the Labour Court. Learned counsel for the petitioner submits that the original records could not be produced as the same was in the custody of the State Govt. at the relevant time, as the petitioner No. 2 had moved the State Govt. for suspension of the resolution. No document is placed on record to indicate that the petitioner apprised the labour court about the original record being in possession of the State Govt. and hence inability of the petitioner to produce the same.

2. The Revisional Court has concurred with the findings recorded by the Labour Court. I am of the clear view that as the petitioner has failed to lead

any evidence before the Labour Court to prove the acts of misconduct attributed to the Respondent, though such permission was granted by the Labour Court, no fault can be found with the impugned order. There is no merit in the writ petition. Hence the same is dismissed. At this stage learned counsel for the petitioner seeks time to implement the order passed by the Labour Court as he apprehends coercive action. Four weeks time to comply with the order is granted.

(A.P. DESHPANDE, J.)